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MOTOROLA INC
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In re Application of : DECISION ON
Buljore et al :
Application No.: 10/528,211 :
PCT No.: PCT/EP2003/50400 :
Int. Filing Date: 09 September 2003 : PETITION UNDER
Priority Date: 17 September 2002 :
Attorney's Docket No.: CR00560P :
For: COMMUNICATION UNIT AND... EQUIPMENT : 37 CFR 1.181

This decision is in response to the "PETITION UNDER 37 C.F.R. 1.182," which is being treated as a petition under 37 CFR 1.181 filed on 02 October 2006, requesting that 371(c) date is 17 March 2005.

BACKGROUND

On 17 March 2005, applicants filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter (Form PTO-1390) accompanied by, *inter alia*, the basic national fee. Applicants, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed oath or declaration was filed at that time.

On 02 August 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, *inter alia*, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date." The notice also indicated that all of the items set forth above must be submitted within two (2) months from the date of this notice or by 32 months from the priority date for the application, whichever is later. Failure to properly respond will result in abandonment.

On 19 September 2005, applicants submitted a properly executed Declaration.

On 23 January 2006, the USPTO mailed a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 C.F.R. 1.495 (Form PCT/DO/EO/903)," indicating that date of receipt of 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) requirements is 19 September 2005, and a date of completion of all 35 USC 371 requirements of 19 September 2005.

On 02 October 2006, applicants filed the current petition pursuant 37 CFR 1.181 requesting a corrected filing receipt, stating that the filing or 35 USC 371(c) date is 17 March 2005 and not what is shown in the filing receipt as 19 September 2005.

BACKGROUND

35 U.S.C. 371 National stage: Commencement.

- (c) The applicant shall file in the Patent and Trademark Office —
 - (1) the national fee provided in section 41(a) of this title;
 - (2) a copy of the international application, unless not required under subsection (a) of this section or already communicated by the International Bureau, and a translation into the English language of the international application, if it was filed in another language;
 - (3) amendments, if any, to the claims in the international application, made under article 19 of the treaty, unless such amendments have been communicated to the Patent and Trademark Office by the International Bureau, and a translation into the English language if such amendments were made in another language;
 - (4) an oath or declaration of the inventor (or other person authorized under chapter 11 of this title) complying with the requirements of section 115 of this title and with regulations prescribed for oaths or declarations of applicants;

The National Stage papers were received on 17 March 2005. However, the date that applicant completed the requirements under section (c) of 35 USC 371 is 19 September 2005 because this is the date that applicant submitted an executed declaration; thus, completing item 35 USC 371(c)(4).

Accordingly, 19 September 2005 is the date of completion of all 35 USC 371 requirements because it is the date that the applicable sections of 35 USC 371 were met.

CONCLUSION

For reasons above, the petition under 37 CFR 1.181 is **DISMISSED**, without prejudice.

If reconsideration of the merits of the petition under 37 CFR 1.181 is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

A handwritten signature in black ink, appearing to read 'R. Bacares'.

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